

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-390
HOUSE BILL 1073

AN ACT TO CREATE AN AUTOMATION ENHANCEMENT AND PRESERVATION FUND AND EXPAND THE UNIFORM FEES FOR SERVICES CHARGED BY REGISTERS OF DEEDS, TO ENHANCE THE STANDARDS FOR INSTRUMENTS TO BE REGISTERED IN THE OFFICE OF THE REGISTER OF DEEDS, AND TO ALLOW THE SECRETARY OF STATE TO REINSTATE BUSINESS ENTITIES ADMINISTRATIVELY DISSOLVED BY THE SECRETARY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-10(a) reads as rewritten:

"(a)Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- (1) Instruments in General. - For registering or filing any instrument for which no other provision is made by this section, whether written, printed, or typewritten, the fee shall be ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) for the first ~~page, which page shall not exceed 8 1/2 inches by 14 inches, page~~ plus two dollars (\$2.00), three ~~dollars (\$3.00) for each additional page or fraction thereof. A page exceeding 8 1/2 inches by 14 inches shall be considered two pages.~~

When a document is presented for registration that consists of multiple instruments, the fee shall be ten dollars (\$10.00) for each additional instrument. A document consists of multiple instruments when it contains two or more instruments with different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone.

- (1a) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages. - For registering or filing any deed of trust or mortgage, whether written, printed, or typewritten, the fee shall be ~~ten dollars (\$10.00)~~ twelve ~~dollars (\$12.00) for the first page, which page shall not exceed 8 1/2 inches by 14 inches, page~~ plus two ~~dollars (\$2.00)~~ three dollars ~~(\$3.00) for each additional page or fraction thereof. A page exceeding 8 1/2 inches by 14 inches shall be considered two~~ ~~pages.~~

When a deed of trust or mortgage is presented for

registration that contains one or more additional instruments, the fee shall be ten dollars (\$10.00) for each additional instrument. A deed of trust or mortgage contains one or more additional instruments if such additional instrument or instruments has or have different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone.

For recording records of satisfaction, or the cancellation of record by any other means, of deeds of trust or mortgages, there shall be no fee.

- (2) Marriage Licenses. - For issuing a license ~~forty dollars (\$40.00);~~ fifty dollars (\$50.00); for issuing a delayed certificate with one certified copy ~~five dollars (\$5.00);~~ twenty dollars (\$20.00); and for a proceeding for correction of ~~names in an~~ application, license or certificate, with one certified copy ~~five dollars (\$5.00).~~ ten dollars (\$10.00).
- (3) Plats. - For each original or revised plat recorded twenty-one dollars (\$21.00) per sheet or page; for furnishing a certified copy of a plat ~~three dollars (\$3.00).~~ five dollars (\$5.00).
- (4) Right-of-Way Plans. - For each original or amended plan and profile sheet recorded ~~five dollars (\$5.00).~~ twenty-one dollars (\$21.00) for the first page and five dollars (\$5.00) per page for each additional page. This fee is to be collected from the Board of Transportation.
- (5) Registration of Birth Certificate One Year or More after Birth. - For preparation of necessary papers when birth to be registered in another county ~~five dollars (\$5.00);~~ ten dollars (\$10.00); for registration when necessary papers prepared in another county, with one certified copy ~~five dollars (\$5.00);~~ ten dollars (\$10.00); for preparation of necessary papers and registration in the same county, with one certified copy ~~ten dollars (\$10.00).~~ twenty dollars (\$20.00).
- (6) Amendment of Birth or Death Record. - For preparation of amendment and affecting correction ~~two dollars (\$2.00).~~ ten dollars (\$10.00).
- (7) Legitimations. - For preparation of all documents concerned with legitimations ~~seven dollars (\$7.00).~~ ten dollars (\$10.00).
- (8) Certified Copies of Birth and Death Certificates and Marriage Licenses. - For furnishing a certified copy of a death or birth certificate or marriage license ~~three dollars (\$3.00).~~ ten dollars (\$10.00). Provided however, a Register of Deeds may issue without charge a certified Birth Certificate to any person over the

- age of 62 years.
- (8a) Vital Records Network. - For obtaining access to the Vital Records Computer Network, two dollars (\$2.00).
- (9) Certified Copies. - For furnishing a certified copy of an instrument for which no other provision is made by this section ~~three dollars (\$3.00)~~ five dollars (\$5.00) for the first page, plus ~~one dollar (\$1.00)~~ two dollars (\$2.00) for each additional page or fraction thereof.
- (10) Comparing Copy for Certification. - For comparing and certifying a copy of any instrument filed for registration, when the copy is furnished by the party filing the instrument for registration and at the time of filing thereof ~~two dollars (\$2.00)~~ five dollars (\$5.00).
- (11) Uncertified Copies. - ~~when, as a convenience to the public, the~~ A register of deeds who supplies uncertified copies of instruments, or index pages, as a convenience to the public, he may charge fees that ~~in his discretion~~ the register of deeds determines bear a reasonable relation to the quality of copies supplied and the cost of purchasing and maintaining copying and/or computer equipment. These fees may be changed from time to time, but the amount of these fees shall at all times be uniform and prominently posted in ~~his office.~~ the office of the register of deeds.
- (12) Notarial Acts. - For taking an acknowledgment, oath, or affirmation or performing any other notarial act the maximum fee set in G.S. 10A-10. This fee shall not be charged if the act is performed as a part of one of the services for which a fee is provided by this subsection; except that this fee shall be charged in addition to the fees for registering, filing, or recording instruments or plats as provided by subdivisions (1) and (3) of this subsection.
- (13) **(Effective until July 1, 2001)** Uniform Commercial Code. - Such fees as are provided for in Chapter 25, Article 9, Part 4, of the General Statutes.
- (13) **(Effective July 1, 2001)** Uniform Commercial Code. - Such fees as are provided for in Chapter 25, Article 9, Part 5, of the General Statutes.
- (14) Torrens Registration. - Such fees as are provided in G.S. 43-5.
- (15) Master Forms. - Such fees as are provided for instruments in general.
- (16) Probate. - For certification of instruments for registration as provided in G.S. 47-14 two dollars (\$2.00).
- (17) Qualification of Notary Public. - For administering the oaths of office to a notary public and making the appropriate record entries as provided in G.S. 10A-8 ~~five dollars (\$5.00)~~ ten

dollars (\$10.00).

(18) Reinstatement of Articles of Incorporation. - For filing reinstatements of Articles of Incorporation prepared pursuant to G.S. 105-232; such fees as provided for instruments in general. The fee shall be paid by the corporation affected.

(19) Nonstandard Document. - For registering or filing any document not in compliance with the recording standards adopted under G.S. 161-14(b), the fee shall be twenty-five dollars (\$25.00) in addition to all other applicable recording fees.

~~(19)~~ (20) Miscellaneous Services. - For performing miscellaneous services such as faxing documents, providing laminated copies of documents, expedited delivery of documents, and similar services, the cost of the service."

SECTION 2. Chapter 161 of the General Statutes is amended by adding a new section to read:

"§ 161-11.3. Automation Enhancement and Preservation Fund.

Ten percent (10%) of the fees collected pursuant to G.S. 161-10 and retained by the county shall be set aside annually and placed in a nonreverting Automation Enhancement and Preservation Fund, the proceeds of which shall be expended on computer and imaging technology in the office of the register of deeds. Nothing in this section shall be construed to affect the duty of the board of county commissioners to furnish supplies and equipment to the office of the register of deeds."

SECTION 3. G.S. 65-13(c) reads as rewritten:

"(c)The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county in which reinterment is made, a written certificate of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name.

~~A fee of one dollar (\$1.00) for each page or portion of page of such~~ The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration."

SECTION 4. G.S. 47-21 reads as rewritten:

"§ 47-21. Blank or master forms of mortgages, etc.; embodiment by reference in instruments later filed.

It shall be lawful for any person, firm or corporation to have a blank or master form of mortgage, deed of trust, or other instrument conveying an interest in, or creating a lien on, real

and/or personal property, filed, indexed and recorded in the office of the register of deeds. When any such blank or master form is ~~filed with~~ filed, the register of ~~deeds, he~~ deeds shall record ~~the same, it~~ it and shall index ~~the same~~ it in the manner now provided by law for the indexing of instruments recorded in ~~his office,~~ the office of the register of deeds, except that the name of the person, firm or corporation whose name appears on such blank or master form shall be inserted in the indices as grantor and also as grantee. The fee for filing, recording and indexing such blank or master form shall be ~~five dollars (\$5.00).~~ that for recording instruments in general, as provided in G.S. 161-10(a)(1).

When any deed, mortgage, deed of trust, or other instrument conveying an interest in, or creating a lien on, real and/or personal property, refers to the provisions, terms, covenants, conditions, obligations, or powers set forth in any such blank or master form recorded as herein authorized, and states the office of recordation of such blank or master form, book and page where same is recorded such reference shall be equivalent to setting forth in extenso in such deed, mortgage, deed of trust, or other instrument conveying an interest in, or creating a lien on, real and/or personal property, the provisions, terms, covenants, conditions, obligations and powers set forth in such blank or master form. Provided this section shall not apply to Alleghany, Ashe, Avery, Beaufort, Bladen, Camden, Carteret, Chowan, Cleveland, Columbus, Dare, Gates, Granville, Guilford, Halifax, Iredell, Jackson, Martin, Moore, Perquimans, Sampson, Stanly, Swain, Transylvania, Vance, Washington and Watauga Counties."

SECTION 5. G.S. 161-14 reads as rewritten:

"§ 161-14. **Registration of instruments.**

(a) ~~The~~ After the register of deeds has determined that all statutory and locally adopted prerequisites for recording have been met, the register of deeds shall immediately register all written instruments presented to him for registration. When an instrument is presented for registration, the register of deeds shall endorse upon it the day and hour on which it was presented. This endorsement forms a part of the registration of the instrument. All instruments shall be registered in the precise order in which they were presented for registration. Immediately after endorsing the day and hour of presentation upon an instrument, the register of deeds shall index and cross-index it in its proper sequence. ~~He~~ The register of deeds shall then proceed to register it on the day that it is presented unless a temporary index has been established.

The register of deeds ~~may, in his~~ discretion, may establish a temporary index in which all instruments presented for registration shall be indexed until they are registered and entered in the permanent indexes. A temporary index shall operate in all respects as the permanent index. All instruments presented for registration shall be registered and indexed and cross-indexed on the permanent indexes not later than 30 days after the date of presentation.

(b) All instruments presented for registration ~~shall be on paper and in ink of a color, quality, size, and condition that will permit the production of legible and permanent~~

~~reproductions thereof by photographic or microphotographic processes. If an instrument presented for registration is in a condition that will not permit such reproduction, the register of deeds shall endorse thereon the following notation: "Record of poor quality due to condition of original document." He shall then register the instrument in the usual manner. on~~
paper shall meet all of the following requirements:

- (1) Be eight and one-half inches by eleven inches or eight and one-half inches by fourteen inches.
- (2) Have a blank margin of three inches at the top of the first page and blank margins of one-half inches on the remaining sides of the first page and on all sides of subsequent pages.
- (3) Be typed or printed in black on white paper in a legible font. A font size no smaller than 10 points shall be considered legible. Blanks in an instrument may be completed in pen and corrections to an instrument may be made in pen.
- (4) Have text typed or printed on one side of a page only.
- (5) State the type of instrument at the top of the first page.

If an instrument does not meet these requirements, the register of deeds shall register the instrument after collecting the fee for nonstandard documents as required by G.S. 161-10(a)(19) in addition to all other applicable recording fees. However, if an instrument fails to meet the requirements because it contains print in a font size smaller than 10 points, the register of deeds may register the instrument without collecting the fee for nonstandard documents if, in the discretion of the register of deeds, the instrument is legible.

(c) Transportation corridor official maps authorized under Article 2E of Chapter 136 shall be registered and indexed by the end of the third business day after the business day the map is presented to the ~~Register of Deeds~~register of deeds.

(d) For the purposes of this section, the term "instrument" means all of the following for which a fee is collected under G.S. 161-10(a):

- (1) Instruments in General.
- (2) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages.
- (3) Uniform Commercial Code filings.
- (4) Torrens Registrations.
- (5) Master Forms."

SECTION 6. G.S. 136-19.4(e) reads as rewritten:

"(e)The register of deeds in each county shall collect a fee from the Department of Transportation of twenty one dollars (\$21.00) for the first page and five dollars (\$5.00) for each additional page for each original or amended plan and profile sheet recorded. for recording right-of-way plans and profile sheets in the amount set out in G.S. 161-10."

SECTION 7. G.S. 55-14-22 reads as rewritten:

"§ 55-14-22. Reinstatement following administrative dissolution.

(a)A corporation administratively dissolved under G.S. 55-

14-21 may apply to the Secretary of State for ~~reinstatement not later than five years after the effective date of dissolution. reinstatement.~~

The application must:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution; and
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated.
- (3) Reserved.
- (4) Repealed by Session Laws 1995, c. 539, s. 6.

(a) If, at the time the corporation applies for reinstatement, the name of the corporation is not distinguishable from the name of another entity authorized to be used under G.S. 55-4-01, then the corporation must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement.

(b) If the Secretary of State determines that the application contains the information required by ~~subsection (a) and subsection (a) of this section~~, that the information is correct, ~~he~~ and that the name of the corporation complies with G.S. 55-4-01 and any other applicable section, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites ~~his~~ the Secretary of State's determination and the effective date of reinstatement, file the original of the certificate, and mail a copy to the corporation.

(c) When the reinstatement is effective, it relates back to and takes effect as of the date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred, subject to the rights of any person who reasonably relied to his prejudice upon the certificate of dissolution."

SECTION 8. G.S. 55-4-01(g) reads as rewritten:

"(g) The name of a corporation dissolved under Article 14 may not be used by another corporation ~~until~~ until one of the following occurs:

- (1) In the case of a voluntary dissolution, the expiration of 120 days after the effective date of the ~~dissolution,~~ dissolution.
- (2) In the case of an administrative dissolution, the expiration of ~~the period within which the corporation may be reinstated pursuant to G.S. 55-14-21,~~ five years after the effective date of the administrative dissolution.

~~unless~~

- (3) ~~the~~ The dissolved corporation changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other business corporations, nonprofit corporations, limited partnerships, or limited liability companies organized or transacting business in this State."

SECTION 9. G.S. 55A-14-22 reads as rewritten:

"§ 55A-14-22. Reinstatement following administrative

dissolution.

(a) A corporation administratively dissolved under G.S. 55A-14-21 may apply to the Secretary of State for ~~reinstatement not later than five years after the effective date of dissolution.~~ reinstatement.

The application shall:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution; and
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated.

(a1) If, at the time the corporation applies for reinstatement, the name of the corporation is not distinguishable from the name of another entity authorized to be used under G.S. 55A-4-01, then the corporation must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section, ~~and~~ that the information is correct, and that the name of the corporation complies with G.S. 55A-4-01 and any other applicable section, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the Secretary of State's determination and the effective date of reinstatement, file the original of the certificate, and mail a copy to the corporation.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its activities as if the administrative dissolution had never occurred, subject to the rights of any person who reasonably relied to his prejudice upon the certificate of dissolution."

SECTION 10. G.S. 55A-4-01(f) reads as rewritten:

"(f) The name of a corporation dissolved under Article 14 of this Chapter shall not be used by another corporation ~~until~~ until one of the following occurs:

- (1) In the case of a voluntary dissolution, the expiration of 120 days after the effective date of the ~~dissolution,~~
~~or~~ dissolution.
- (2) In the case of an administrative dissolution, the expiration of ~~the period within which the corporation may be reinstated pursuant to G.S. 55A-14-22,~~ five years after the effective date of the administrative dissolution.

~~unless~~

- (3) ~~the~~ The dissolved corporation changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other nonprofit corporations, business corporations, limited partnerships, or limited liability companies organized or transacting business in this State."

SECTION 11. G.S. 57C-6-03(c) reads as rewritten:

"(c) A limited liability company administratively dissolved under this section may apply to the Secretary of State for

~~reinstatement not later than five years after the effective date of the administrative dissolution.~~
reinstatement. The procedures for reinstatement and for the appeal of any denial of the limited liability company's application for reinstatement shall be the same procedures applicable to ~~business~~ corporations under G.S. 55-14-22, 55-14-23, and 55-14-24. If, at the time the limited liability company applies for reinstatement, the name of the limited liability company is not distinguishable from the name of another entity authorized to be used under G.S. 57C-2-30, then the limited liability company must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement. The effect of reinstatement of a limited liability company shall be the same as for a corporation under G.S. 55-14-22."

SECTION 12. G.S. 57C-2-30(f) reads as rewritten:

"(f)The name of a limited liability company dissolved under Article 6 of this Chapter may not be used by another limited liability company, business corporation, nonprofit corporation, or limited partnership ~~until~~until one of the following occurs:

(1) In the case of a dissolution pursuant to G.S. 57C-6-01, the later of (i) the date of filing of articles of dissolution pursuant to G.S. 57C-6-06 or (ii) the expiration of the time within which articles of dissolution of the limited liability company may be canceled pursuant to ~~G.S. 57C-6-06.1~~
~~or~~G.S. 57C-6-06.1.

(2) In the case of an administrative dissolution pursuant to G.S. 57C-6-03, the expiration of ~~the period within which the limited liability company may be reinstated pursuant to G.S. 57C-6-03,~~ five years after the effective date of the administrative dissolution, if the limited liability company's period of duration stated in its articles of organization or written operating agreement has not ~~expired,~~expired.

~~unless~~

(3) ~~the~~The dissolved limited liability company changes its name to a name distinguishable upon the records of the Secretary of State from the names of other limited liability companies, business corporations, nonprofit corporations, or limited partnerships organized or transacting business in this State."

SECTION 13. G.S. 59-84.4(h) reads as rewritten:

"(h)A registered limited liability partnership or foreign limited liability partnership whose registration is revoked under this section may apply to the Secretary of State for ~~reinstatement not later than five years after the effective date of the revocation.~~ reinstatement. If, at the time the registered limited liability partnership applies for reinstatement, the name of the registered limited liability partnership is not distinguishable from the name of another entity authorized to be used under G.S. 55D-21, then the registered limited liability partnership must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other

entity before the Secretary of State may prepare a certificate of reinstatement. The procedures for reinstatement and for the appeal of any denial of the registered limited liability partnership or foreign limited liability partnership's application for reinstatement shall be the same procedures applicable to business corporations under G.S. 55-14-22, 55-14-23, and 55-14-24. The effect of reinstatement of a limited liability partnership shall be the same as for a corporation under G.S. 55-14-22."

SECTION 14. The Secretary of State shall report to the General Assembly by June 30, 2003, on whether a time limit should be placed upon the period of time within which an entity may be permitted to apply for reinstatement from administrative dissolution or revocation.

SECTION 15. G.S. 55D-21(d), as enacted by House Bill 385 of the 2001 General Assembly and ratified on August 2, 2001, and amended by Section 163 of Senate Bill 842 of the 2001 General Assembly, reads as rewritten:

"(d)Except as otherwise provided in this subsection, the name of a corporation dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a limited liability company dissolved under Article 6 of Chapter 57C of the General Statutes, of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the General Statutes, or of a limited liability partnership whose registration as a limited liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S. 59-84.4, may not be used by another entity ~~until:~~ until one of the following occurs:

- (1) In the case of a nonjudicial dissolution other than an administrative dissolution, or cancellation of registration as a limited liability partnership, 120 days after the effective date of the dissolution or cancellation.
- (2) In the case of an administrative dissolution or revocation of registration as a limited liability partnership, the expiration of ~~the period within which the entity or its registration may be reinstated.~~ five years after the effective date of the administrative dissolution or revocation.
- (3) In the case of a judicial dissolution, 120 days after the later of the date the judgment has become final or the effective date of the dissolution. The person applying for the name must certify to the Secretary of State that no appeal or other judicial review of the judgment directing dissolution is pending.

~~The name of a~~

- (4) ~~The dissolved entity may be used at any time if the entity changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other domestic corporations, nonprofit corporations, limited liability companies, limited partnerships, or registered limited liability partnerships, or foreign corporations, foreign nonprofit corporations, foreign limited liability companies, or foreign limited partnerships~~

authorized to transact business or conduct affairs in this State, or foreign limited liability partnerships maintaining a statement of foreign registration, in this State."

SECTION 16. G.S. 161-10(a)(4), as amended in Section 1 of this act, is effective retroactively to January 1, 2001. The remainder of Section 1 and Sections 2 through 4 of this act become effective January 1, 2002. Section 5 of this act becomes effective with respect to instruments executed on or after July 1, 2002. Sections 7 through 13 of this act are effective when they become law and apply retroactively to applications for reinstatement made on or after December 1, 1999. Section 15 of this act becomes effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of August, 2001.

Senate
s/ Marc Basnight
President Pro Tempore of the

Representatives
s/ James B. Black
Speaker of the House of

s/ Michael F. Easley
Governor

Approved 5:39 p.m. this 26th day of August, 2001